

Decision 16-07-017 July 14, 2016

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking into the Review  
of the California High Cost Fund-A Program.

Rulemaking 11-11-007  
(Filed November 10, 2011)

**ORDER EXTENDING STATUTORY DEADLINE**

**Summary**

This decision extends the statutory deadline in this proceeding to October 7, 2016.

**1. Background**

Pub. Util. Code § 1701.5(a) provides that quasi-legislative cases must be resolved within 18 months of the date the scoping memo is issued unless the Commission makes findings why that statutory deadline cannot be met and issues an order extending the 18-month deadline for a period not exceeding 60 days. The second amended scoping memo for this proceeding was issued on December 9, 2014, and the initial deadline for resolving the issues in this proceeding was June 9, 2016. On June 9, 2016, the Commission issued Decision (D.) 16-06-031 which extended the statutory deadline for this proceeding until August 8, 2016.

With the Order Instituting Rulemaking (OIR) (Rulemaking (R.) 11-11-007), the Commission began a review of the California High Cost Fund-A (CHCF-A) program. The OIR was issued pursuant to the Commission's Decision 10-02-016. The Commission has determined that a detailed review of the program is warranted in response to market, regulatory, and technological changes since the

California High Cost Fund program was first established in 1987. In this OIR, the Commission seeks comment on how the program can more efficiently and effectively meet its stated goals. To the extent deficiencies are identified, the Commission will solicit proposals on how the program should be modified consistent with its statutory purposes.

The OIR was approved on November 10, 2011, and issued on November 18, 2011. The preliminary schedule mandated that the initial comments be filed and served 61 days after issuance (January 18, 2012), and that reply comments be due 91 days after issuance. On March 18, 2014, the assigned Commissioner issued an Amended Scoping Memo and Ruling. The Amended Scoping Ruling revised the scope set forth in that earlier Scoping Memo, identified new issues, set forth the issues to be addressed in workshops, evidentiary hearing and/or briefs, and sought additional comments from the Parties, in light of the initial opening comments, the initial Prehearing Conference (PHC), the second PHC, as well as the passage of Senate Bill 379. In addition, the proceeding was divided into two phases (Phase 1 and Phase 2). On December 9, 2014, the assigned Commissioner issued a Second Amended Scoping Ruling that revised the scope of this proceeding to address the implementation of a General Rate Case (GRC) Plan for Small Incumbent Local Exchange Carriers (ILECs) that draw from the CHCF-A program as well as possible adjustments to the waterfall mechanism. On December 18, 2014, the Commission issued D.14-12-084 for Phase 1 of the instant proceeding.

A draft Rate Case Plan (RCP) was attached to the Second Amended Scoping Ruling. Parties to the proceeding were ordered to file comments on the draft RCP by January 9, 2015, and to file reply comments by January 23 with an interim proposed decision to follow. On January 9, 2015, the assigned

Administrative Law Judge (ALJ) issued an e-mail setting a Workshop for February 5, 2015 for Parties to discuss the proposed RCP. A partially transcribed workshop was held on February 5, 2015. On March 20, 2015, pursuant to Rule 11.1,<sup>1</sup> the Small ILECs filed a Motion for adjustment to the deadlines for submission of Rate Cases and a premature application of the waterfall mechanism under D.91-09-042 and D.14-08-010. The assigned ALJ issued a Ruling granting the Motion on March 26, 2015, staying and freezing the waterfall mechanism. D.15-06-048 adopting a RCP for the Small ILECs was issued on June 25, 2015.

Due to the complexity of this proceeding, a second phase will be required. In Phase 2, the following issues will be addressed: (1) the applicability of rate of return as a regulatory framework for California's rural ILECs and the operation of the A-Fund; (2) alternative forms of regulation, including whether to introduce incentive-based regulation; (3) whether or not to continue the GRC process for the Small ILECs; (4) whether an evaluation of the presence of competition should include all technologies; (5) proposals to disqualify non-CHCF-A recipients from CHCF-A eligibility; (6) a review of our preliminary conclusion not to open the areas the Small ILECs serve to competition, informed by studies the Commission will conduct in Phase 2 on deployment of Broadband Networks and Universal Service, as described in more detail herein; and 7) a review of whether imputation of broadband revenues is appropriate for GRC cycles following the first cycle approved after this Decision.

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<sup>1</sup> All references to Rules are to the Commission's Rules of Practice and Procedure, which are available on the Commission's website at:  
[http://docs.cpuc.ca.gov/word\\_pdf/RULES\\_PRAC/70731.pdf](http://docs.cpuc.ca.gov/word_pdf/RULES_PRAC/70731.pdf).

Work has begun on a third revised scoping ruling in this proceeding but has not yet been completed. Accordingly, an extension of the deadline is needed to allow time to complete and issue the third revised scoping ruling. Today's decision extends the deadline to October 7, 2016.

## **2. Waiver of Comment Period**

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of proposed decisions extending the deadline for resolving quasi-legislative proceedings. Accordingly, the otherwise applicable period for public review and comment is being waived.

## **3. Assignment of Proceeding**

Catherine J.K. Sandoval is the assigned Commissioner and W. Anthony Colbert is the assigned ALJ in this proceeding.

## **Findings of Fact**

1. The second amended scoping memo for this proceeding was issued on December 9, 2014.
2. The initial deadline for resolving this proceeding was June 9, 2016.
3. On June 9, 2016, the Commission issued D.16-06-031 which extended the statutory deadline to August 8, 2016.
4. The Commission has issued several major decisions in this proceeding.
5. An extension of the statutory deadline is needed to complete and issue a third revised scoping ruling. Today's decision further extends the deadline to October 7, 2016.

## **Conclusions of Law**

1. The deadline imposed by Pub. Util. Code § 1701.5(a) should be extended by 60 days.

2. In accordance with Rule 14.6(c)(4), the comment period is waived.

**IT IS ORDERED** that the statutory deadline in this proceeding is extended to October 7, 2016.

This order is effective today.

Dated July 14, 2016, at San Francisco, California.

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners